

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

MICHAEL D. ROSE, et al.,

Plaintiffs,

v.

JEFF S. SANDY, et al.,

Defendants.

**Civil Action No. 5:22-cv-00405
(Judge Volk)**

AFFIDAVIT OF ATTORNEY STEPHEN P. NEW

COMES NOW, Affiant, Stephen P. New, Attorney for Plaintiffs, and deposes and states that:

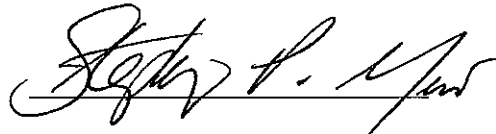
1. Plaintiffs' counsel in this matter consists of myself and Emilee Wooldridge of Stephen New and Associates, Amanda Taylor of Taylor, Hinkle & Taylor, Timothy Lupardus of Lupardus Law Office, Zachary Whitten of Whitten Law Office, and Robert Dunlap of Robert Dunlap & Associates.
2. I have extensive experience handling class action litigation, mass tort litigation, and other complex civil matters.
3. My law firm and I have been involved in the following applicable matters:
 - *Ooten, et al. v. Massey Energy Company, et al.*; 02-C-203, 02-C-232, Circuit Court of Mingo County, West Virginia (2001-2005). Co-Lead Counsel for 450 Plaintiffs (Environmental/Toxic Tort);
 - *In re: Mountain State University Litigation*; Master Case 12-C-9000; Co-Lead Counsel for Nursing School Plaintiffs (University Lost Accreditation);
 - *Dotson, et al v. WVDEP*; Civil Action No. 16-C-96, Circuit Court of McDowell County, West Virginia (2016-2020). Co-Lead Counsel for Plaintiffs (Environmental/Toxic Tort);
 - *Vines, et al. v. Raleigh County Heart Clinic, et al.* – 16-C-166-K, Circuit Court of Raleigh County, West Virginia (2016-2019). Co-Lead Counsel for Plaintiffs (Medical Malpractice/Hepatitis Outbreak);

- *Doe, et al. v. Beckley VA Medical Center* – 5:20-cv-00806 - 00234 United States District Court for the Southern District of West Virginia (2020-2021). Lead Counsel for 56 Plaintiffs (Medical Malpractice);
- *Fender, et al. v. CIOX, et al.* – CC-23-2015-C-147, Circuit Court of Logan County, West Virginia (2015-2023) (overcharging patients under medical records statute)
- *Harper, et al. v. CVS Health Corporation, et al.* – 16-C-796-H, Circuit Court of Raleigh County, West Virginia (2016-2018). Lead Counsel for Plaintiffs (overcharging patients under medical records statute)
- *Blankenship v. McKesson, et. al.* - 22-C-9000 NAS, Co-Lead Counsel Opioid NAS West Virginia Mass Litigation Panel (2017 to present). Co-Lead Counsel for approximately 26 minor children Plaintiffs diagnosed NAS (Neonatal Abstinence Syndrome) (Mass Tort).
- *Abner, et al. v. Beckley VA Medical Center* – 5:23-cv-243, United State District Court for the Southern District of West Virginia (2023). Lead Counsel for Plaintiffs (Hepatitis exposure) (consolidated actions)
- *Stewart, et al. v. Entergy Corp., et al.* – Docket No. 2021-07365, Civil District for the Parish of Orleans, State of Louisiana (2021 to present). Co-Lead Counsel for Plaintiffs (Mass Tort)

4. In addition to the mass tort and class action litigations referenced above, large parts of my practice consists of federal civil rights litigation brought pursuant to 28 U.S.C. § 1983.
5. Likewise, the Taylor, Dunlap, Lupardus, and Whitten law firms collectively bring decades of experience in litigation (both civil and criminal) and are an indispensable part of the team of lawyers needed for a case of this magnitude. Their firms have conducted much of the initial investigation into Plaintiffs' claims and continue to interface with the class members on a daily basis.
6. Plaintiffs' counsel has the financial and other resources to adequately represent this class.
7. My office, Stephen New & Associates, has two attorneys and four paralegals who, when called on, can devote significant time to this class action.
8. Financial resources have not been, and will not be, an obstacle to advancing this litigation to its conclusion.

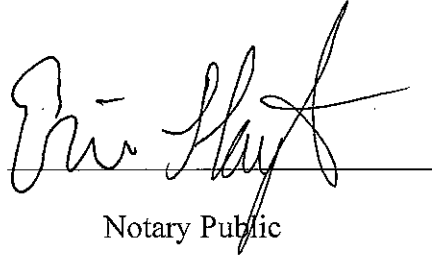
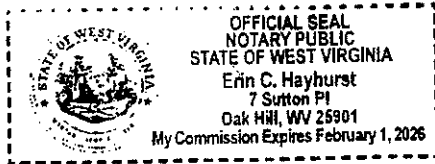
9. Appointing these law firms to serve as class co-counsel will not only protect the interests of the class but will allow for stream-lining and coordination of motion practice and discovery, while avoiding unnecessary duplication and expense.
10. Following sixteen months of contentious, hard-fought litigation and direct negotiations, Class Counsel, State Actor Defendants and the West Virginia Board of Risk and Insurance Management (“BRIM”) made a substantial concerted effort to reach a global resolution to this litigation—namely, through the device of a limited fund class action settlement.
11. Through these discussions, the participants worked diligently to develop terms amenable to all settling parties and with an eye toward achieving fair outcomes for all participants in this litigation. The Agreement is the product of informed arm’s length bargaining by the Parties.
12. Given the state actors’ immunity against state law claims, except to the extent of insurance and given the uncertainties with respect to the §1983 claims, the framework made possible by the limited fund device provides the most feasible and fair recovery method for the class members.
13. This limited amount of insurance is inadequate to satisfy the multitude of claims already asserted, and which could be filed in the future, against the state actor Defendants.
14. Preliminary determinations indicate that the aggregate potential value of claims against Defendants could well exceed \$4,000,000.00.
15. It is the opinion of Plaintiffs’ counsel that the claims have a value far in excess of this amount, and are appropriate for limited fund treatment.

Further affiant saith naught.



Stephen P. New (WVSB No. 7756)

Sworn to and subscribed in my presence this 8 day of December, 2023.



Notary Public

My Commission Expires February 1, 2026